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RUEHLZ RUEHPOD RUEHROV RUEHSR RUEHVK RUEHYG  
DE RUEHVB #1074/01 3471326  
ZNR UUUUU ZZH  
R 131326Z DEC 07  
FM AMEMBASSY ZAGREB  
TO RUEHC/SECSTATE WASHDC 8417  
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE

UNCLAS SECTION 01 OF 02 ZAGREB 001074

SIPDIS

DEPT FOR EUR/SCE HOH AND BALIAN  
DEPT FOR S/WCI WILLIAMSON  
DEPT FOR INR/MORIN  
NSC FOR BRAUN

SIPDIS  
SENSITIVE

E.O. 12958: N/A

TAGS: [KAWC](#) [ICTY](#) [PREL](#) [PGOV](#) [HR](#)

SUBJECT: Ademi-Norac Trial Transferred from ICTY Continues,  
Additional Witnesses Appear

Ref: (A) Zagreb 1000 (B) Zagreb 853

Sensitive But Unclassified. Please Handle Accordingly.

¶1. (SBU) Summary and Comment. The trial of Croatian Army Generals Rahim Ademi and Mirko Norac, the only so-called 11 bis case transferred from the ICTY to Croatia, continued throughout November in Zagreb. The two are the highest-ranking Croatian military officers to be tried for war crimes in domestic courts. (Ref B) The men are charged with individual and command responsibility for 28 ethnic Serb civilian deaths that occurred during the 1993 "Medak Pocket" military operation in central Croatia aimed at regaining Serb-held territory. By the end of November, 42 prosecution witnesses testified, including five endangered witnesses. None of the witnesses to date were eyewitnesses to alleged crimes; rather they have testified about military operations, location of remains of civilians and soldiers, or the existence or non-existence of a military sector called "Sector One." Following the worrisome non-appearance of witnesses in October reported in ref A, the five endangered witnesses testified via video-link and another six appeared for the prosecution; all reside in either Serbia or Bosnia. Their appearance allays some immediate concerns, but still highlights the ongoing, widespread challenges faced in the Croatian judiciary with witness facilitation and effective regional judicial cooperation. End Summary and Comment.

Some Witnesses Appear, Institutional Problems Remain

¶2. (SBU) Following the testimony of the 11 witnesses and victims, State Prosecutor for War Crimes Antun Kvakan told us he is pleased with the way the trial is progressing. According to him, the volume and quality of evidence clearly points to criminal responsibility of both defendants. While he admitted to problems in locating witnesses in the region and acknowledged the Ministry of Justice's (MOJ) weak capacity, he argued that the MOJ is doing its best. In addition, he doesn't believe the lack of witness appearances will impact negatively on his case. The presiding judge Marin Mrcela told us the presence of the six victims who testified was facilitated by his contacts with judges in Serbia, the Croatian MOJ's Witness Support Unit, and the Ministry of Interior's Witness Protection Unit (which is actually designed only for highly threatened witnesses). Of the 45 witnesses proposed by the prosecution who have not appeared, 10 can still not be located, five or six have died, and six reported to the court that they will not appear. Three of those will likely be facilitated via video link. Four additional victims/witnesses are scheduled to testify in December. By Post's calculations, about 19 witnesses and victims are therefore "no-shows" for various reasons. At the prosecutor's request, the presiding judge has also requested testimony of former UNPROFOR staff, which Kvakan believes will strengthen the prosecution's case. Several witnesses residing in the US have also

been requested to testify.

13. (SBU) Despite Kvakan's optimism, outside observers see chronic institutional faults as a key obstacle for the prosecution. Thomas Osorio, Head of the ICTY Prosecution Office in Croatia, believes the MOJ's floundering Witness Support Unit could be immediately strengthened simply with political support and will. He told us the MOJ has not made a sufficient effort to cooperate regionally on this case to find witnesses. OSCE trial monitors also reported that during testimony by endangered witnesses, information that revealed the identity of four of the endangered witnesses was revealed through voluntary statements by the witnesses, as well as in response to questions from the presiding judge. As a result, the identity of the witnesses became apparent, and was included in the hearing minutes and consequently published in the national media.

14. (SBU) Veselinka Kastratovic from the trial monitoring NGO Center for Peace, which has teamed up with Serbia's Humanitarian Law Center to cover the trial, repeated earlier criticism reported in ref A how prosecutors refrain from contacting any witnesses. NGOs claim that they know where additional witnesses are located. The lack of turnout is therefore largely due to the passive nature of the judicial process. The NGOs also criticized the prosecution for not being adequately aggressive or detailed in its questioning.

Testimony Divided: Did Sector One Exist?

15. (U) One of the most controversial issues in the trial is the existence of Sector One - a temporary military formation created only for the purpose of the Medak Pocket operation, comprised of the 9th Guards Motorized Brigade, Special Police Units, and a local Home Guards Battalion - supposedly commanded by Norac. The existence of Sector One would directly establish Norac's command responsibility during the operation. Some former military members confirmed its existence, while others denied it. According to some officers, the

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Sector was under Ademi's control, while other witnesses testified, and the prosecution argues, that the Sector was placed under Norac's control.

16. (U) To date, none of the witnesses testified they saw or heard Ademi or Norac executing or ordering the commission of war crimes; instead they described cases of arson, looting and destruction of villages and killings of civilians. One witness testified that he had heard Croatian Army soldiers telling each other that all people found in the village had to be executed. Most of the former Croatian Army officers stated that they had not seen any civilians mistreated or killed, that properties were neither looted nor destroyed, and that all soldiers had been acquainted with the Geneva Convention. However, one military doctor testified that he had found signs of torture on the bodies of dead Serb civilians. A few others testified that Norac was a brash young officer who was out of control, and that crimes did occur. Several witnesses characterized the two accused generals as war heroes who had only done their job.

Endangered Witnesses Testify to Crimes

17. (U) Two endangered witnesses who testified were the son and daughter of a murdered female civilian. The woman was found after the Operation with a bullet in the back of her head, several bullets in her chest and the fingers of her right hand cut off. The nature of her death and those of other civilians puts into question the defense's charges that deaths were collateral - largely from shelling. According to the witnesses' testimonies, their mother was killed while fleeing before the Croatian Army. The victim's son also testified that he had seen several massacred bodies of civilians in the town of Korenica where they were transferred for identification.

18. (U) Three other Serb witnesses who testified were residents of villages in the Medak Pocket at the time of the Operation and testified about the killing of family members and property destruction. However, none of these witnesses had any direct knowledge of crimes or perpetrators. One witness resides in

Croatia, while a second traveled from Serbia to testify. The third described destruction and killings in his village via video-link from an undisclosed location, with his voice and image distorted. Commander of the Engineer Corps Jozo Nenandic testified that Croatian forces deliberately destroyed civilian facilities during their retreat. Crimes were not committed during the successful operation, but damage during the retreat tainted the reputation of the operation, Nenadic stated. In the next ten days before the Court's holiday break, testimony is scheduled for four victim/witnesses proposed by the prosecution, and four witnesses proposed by the defense.

BRADTKE